

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RICHARD JOSEPH SCHREIBER,

Plaintiff,

v.

BROWN COUNTY JAIL, C.O. RHODES,
C.O. BAKER, CORPORAL
LEYENDECKER, THOMAS NELSON,
C.O. PETRASEK, O'CONNOR,
MCKASH, C.O. CIESLEWICZ, Z.
BERGH, LT. TIMERICK, LT. TRINKER,
LT. MICHEL, BROWN COUNTY
DETENTION FACILITY, and CAPTAIN,

Defendants.

Case No. 17-CV-1428-JPS

ORDER

1. BACKGROUND AND POSTURE

On October 18, 2017, Plaintiff filed a *pro se* complaint against the above-captioned defendants, alleging violations of his constitutional rights. ECF No. 1. He claimed that Defendants stood by while he was “assaulted,” “humiliated,” “starved,” “strongarmed,” and “emotionally and mentally traumatized.” *Id.* Also on October 18, 2017, Plaintiff filed a motion for leave to proceed in forma pauperis. ECF No. 2. On October 23, 2017, the Court ordered that Plaintiff pay \$21.10 as an “initial partial filing fee in this action.” ECF No. 5. Over the course of October and November, mail sent to Plaintiff was returned as undeliverable. On November 20, 2017, the Court dismissed the case without prejudice for failure to prosecute. ECF No. 6. That order, sent to Plaintiff by mail, was also returned as undeliverable. At no point during this time did Plaintiff provide the Court with an updated

address, and the Court did not hear from Plaintiff again for nearly three years.

On August 22, 2022, Plaintiff sent a letter to the Court inquiring as to the status of his case. ECF No. 8. This was the first time the Court had received anything from Plaintiff since the initial filing of his case. Therein, he wrote that he had “contacted or reached out to the Federal Courthouse here in Green Bay and was waiting for information” *Id.* He stated further that he had been living in various states and “really had no forwarding address as I was basically homeless.” *Id.* On September 6, 2022, Plaintiff wrote again to the Court, requesting “to open this civil suit back up.” ECF No. 9. For the reasons stated below, the Court will deny the motion to reopen.

2. LEGAL STANDARD AND ANALYSIS

Federal Rule of Civil Procedure 60(b) allows parties relief from judgment, order, or proceeding based on a variety of reasons including “mistake, inadvertence, surprise, or excusable neglect,” or “any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(1),(6). Moreover, relief under this Rule is an “extraordinary remedy and is granted only in exceptional circumstances.” *Eskridge v. Cook County*, 577 F.3d 806, 809 (7th Cir. 2009) (internal citation omitted).

Plaintiff provides no compelling justification on any of these bases. Plaintiff did not seek to apprise himself with this Court of the status of his case until nearly three years after he filed his complaint and his motion for leave to proceed in forma pauperis. He attests to having been out-of-state and without a consistent mailing address, but he does not claim that he was unable to contact the Court by some means following his departure from Brown County Jail in Green Bay. He claims to have contacted the Federal

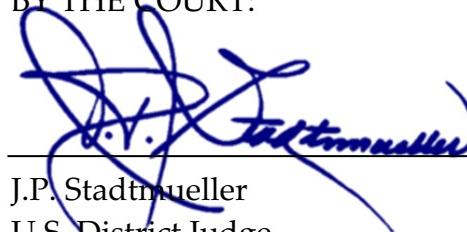
Courthouse in Green Bay, on a date not specified, to inquire about his case, and states that he was thereafter "waiting for information." ECF No. 8 at 1. "This is his civil action, and it [was] his responsibility to prosecute it." *Green v. Wisconsin DOC*, No. 16-CV-1059-JPS, 2017 U.S. Dist. LEXIS 32182, at *3 (E.D. Wis. Mar. 7, 2017). Plaintiff has not demonstrated that his is an exceptional circumstance warranting the extraordinary remedy provided by Rule 60(b). Accordingly, the Court will deny his motion. The Court notes, however, that the dismissal of Plaintiff's case was without prejudice, ECF No. 7, so Plaintiff is free to re-plead and re-file his case if he so chooses.

Accordingly,

IT IS ORDERED that Plaintiff's motion to reopen his case, ECF No. 9, be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 11th day of October, 2022.

BY THE COURT:



J.P. Stadtmauer
U.S. District Judge